

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICKY LLOYD SIMMONDS,

Defendant.

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CASE NO. 1:20-cr-00707-1

ORDER
[Resolving Doc. 400]

JAMES S. GWIN, UNITED STATES DISTRICT COURT JUDGE:

Defendant Ricky Simmonds moves for a sentence reduction under 18 U.S.C. § 3582(c)(2) and U.S. Sentencing Guidelines Amendment 821, Part B.¹ The Federal Public Defender filed a notice of intent not to supplement Simmonds' motion.² The government opposed Simmonds' motion.³

Amendment 821, Part B decreases the total offense level for certain defendants who received zero criminal history points at sentencing.⁴

Although Amendment 821 applies retroactively, a district court may not modify a defendant's sentence based on a retroactive amendment unless the defendant is eligible under U.S. Sentencing Guidelines § 1B1.10.⁵ And under § 1B1.10(a)(2)(B), a defendant is not eligible if applying the retroactive amendment does not lower the defendant's guideline range.⁶

¹ Doc. 400.

² Doc. 401.

³ Doc. 402.

⁴ Amendment 821, <https://www.ussc.gov/guidelines/amendment/821>.

⁵ *Dillon v. United States*, 560 U.S. 817, 827 (2010).

⁶ U.S.S.G. § 1B1.10(a)(2)(B).

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Here, Defendant Simmonds received two criminal history points.⁷ Because Simmonds received criminal history points, Amendment 821, Part B does not apply to Simmonds.

For this reason, Defendant Simmonds is not eligible for a sentence reduction under Amendment 821 and § 3582(c)(2). The Court **DENIES** the sentence reduction motion.

IT IS SO ORDERED.

Dated: April 22, 2024

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

⁷ Doc. 290 at ¶ 79.